

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking into the Review of the
California High Cost Fund B Program

R.06-06-028

**RESPONSE OF VERIZON TO APPLICATION OF
THE UTILITY REFORM NETWORK FOR REHEARING OF D.07-09-020**

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October 24, 2007

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Verizon¹ respectfully submits this response to the application for rehearing of D.07-09-020 (Decision) filed by The Utility Reform Network (TURN). For the reasons set forth below, TURN's application raises no substantive issues of legal or factual error. At most, TURN identifies what may be minor technical inconsistencies subject to ambiguous interpretation. These can easily be corrected if the Commission deems it appropriate to clarify the Decision.

TURN's claims of error relate solely to the treatment of \$36 as a measure of affordability for basic telephone service rates. TURN does not challenge this figure as a new benchmark for determining "high cost" areas eligible for subsidy, the purpose for which it was adopted, but only its apparent use as an "affordability standard" for purposes of setting rate caps for basic service in high cost areas."² However, a fair reading of the Decision makes clear that this \$36 figure – which the Commission acknowledges encompasses a range of services broader than just basic service – was adopted only for the "limited purpose" of setting a high cost benchmark.³ The Decision is clear that this figure "is in no way intended to serve as a cap on basic rate levels."⁴ Indeed, the Decision

¹ In addition to Verizon California Inc. (U-1002-C), the Verizon affiliates submitting these comments include Bell Atlantic Communications, Inc., d/b/a Verizon Long Distance (U-5732-C), MCI Communications Services, Inc. d/b/a Verizon Business Services (U-5378-C), MCI Metro Access Transmission Services, d/b/a Verizon Access Transmission Services (U-5253-C), TTI National, Inc., d/b/a Verizon Business Services (U-5403-C), Teleconnect Long Distance Services & Systems Company, d/b/a Telecom*USA (U-5152-C), and Verizon Select Services, Inc. (U-5494-C).

² Application at 2.

³ Decision at 47, 48.

⁴ Decision at 47.

expressly provides that, after a phase-in period, carriers will be granted full pricing flexibility for basic rates, with no cap at all.⁵

TURN acknowledges the Decision's clear statements regarding the nature and purpose of the \$36 benchmark, but then focuses on language elsewhere in the Decision that "seems to imply" suitability as a measure for basic services expenditures only, or "suggests" that a \$36 basic rate would be reasonable.⁶ At most, TURN's claims suggest the need for clarification of technical errors in the Decision, not a substantive challenge.

Viewed in this manner, TURN's claim that the \$36 high cost benchmark is not supported by substantial evidence in the record⁷ has no merit. As this Commission has recognized, the substantial evidence standard requires consideration of all relevant factors, and a rational connection between those factors, the decision made, and the statute at issue. The standard is met when there is "any substantial evidence, contradicted or uncontradicted, which will support the [finding]".⁸ As Verizon demonstrated in its reply comments on the proposed decision,⁹ the \$36 benchmark is, as the Decision asserts, well within the range of reasonableness and comparability to urban rates.¹⁰ Not only has this level of expenditures been stable over a recent five-year period, it has increased only slightly from \$32 a decade ago – well before bundled services

⁵ Decision at 133, Ord. Para. 8.

⁶ Application at 8 and 10.

⁷ Application at 3.

⁸ D.00-03-025 (order modifying D.99-12-018 and denying rehearing), 2000 Cal. PUC LEXIS 142, citing *Western States Petroleum Ass'n v. Sup. Ct.*, 9 Cal. 4th 559, 571 (1995) and *California Hotel & Motel Ass'n Industrial Welfare Comm'n*, 25 Cal. 3d 200, 212 (1979).

⁹ Reply Comments of Verizon Regarding Proposed Decision of Commissioner Chong Adopting Reforms to the CHCF-B Mechanism, August 28, 2007, at 6-8 and notes 24-30.

¹⁰ Decision at 47.

became predominant. It represents an extremely stable percentage of total household expenditures – higher in the west than elsewhere in the United States – and is just a fraction of the steadily increasing average amounts actually spent on voice services.¹¹ This record adequately supports the Decision.

Likewise, TURN's claim that the Decision “seems to clearly contemplate” a basic rate increase up to \$36¹² is not borne out. Indeed, the October 5, 2007 Assigned Commissioner's Ruling Regarding the Scoping and Scheduling of Phase II Issues, released several days before TURN's application was filed, expressly belies this claim. Specifically, the Ruling seeks comment in Phase II on “*what maximum level* above the currently authorized caps should be set as the *revised cap on basic rates* for each respective ILEC before full pricing flexibility is to take effect?”¹³ Accordingly, TURN has received precisely the relief it seeks,¹⁴ and its allegation of error on this point is completely unfounded.

¹¹ Verizon Reply at 7.

¹² Application at 11.

¹³ Scoping Ruling at 7 (emphasis added).

¹⁴ Application at 8-9 (urging that the price cap on basic residential service be addressed in Phase II).

For the reasons set forth above, TURN's application for rehearing should be denied, and the Decision corrected as deemed necessary to clarify its intent.

DATED: October 24, 2007

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Duncan". The signature is written in a cursive, flowing style.

By _____
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CERTIFICATE OF SERVICE

I hereby certify that: I am over the age of eighteen years and not a party to the within entitled action; my business address is 711 Van Ness Avenue, Suite 300, San Francisco, California 94102; I have this day served a copy of the foregoing,

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on all known parties to R.06-06-028 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

I declare under penalty of perjury that the foregoing is true and correct.

Executed October 24, 2007 at San Francisco, California.

/s/ Thomas Bird

Thomas Bird

CALIFORNIA PUBLIC UTILITIES COMMISSION

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Proceeding: R0606028 - CPUC - OIR INTO THE

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List Name: LIST

Last changed: October 5, 2007

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